



Legislative Testimony
765 Asylum Avenue, First Floor
Hartford, CT 06105
860-523-9146
www.acluct.org

Written Testimony on House Bill 5761, An Act Establishing a Regulatory Sandbox Program

Senator Hartley, Representative Cohen, Ranking Members Martin and Buckbee, and distinguished members of the Commerce Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am submitting this testimony on House Bill 5761, An Act Establishing a Regulatory Sandbox Program.

The ACLU-CT believes in a society where all people, including those who have been convicted or accused of a crime, have equal opportunity to contribute to society and build successful and fulfilling lives. One of the biggest injustices faced by people living with a criminal record are the myriad collateral consequences of that criminal record which persist for years, even lifetimes, after a person finishes the punishment they were sentenced to. Collateral consequences turn any sentence into a life sentence. In Connecticut, people living with a criminal record face over 550 legal barriers to full societal participation.¹ These barriers prevent people from obtaining employment, housing, education, and services. Collateral consequences are not just bad for the people who experience them, they are bad for children, families, and communities as well. Keeping people with criminal records from accessing many types of employment reduces the U.S. gross national product by

¹ National Inventory of Collateral Consequences of Conviction, *available at* https://niccc.csgjusticecenter.org/database/results/?jurisdiction=260&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1; *see also* Kelan Lyons, "Council Begins Study of Discrimination against People with Criminal Records," CT Mirror (Aug. 22, 2019), *available at* <https://ctmirror.org/2019/08/22/council-begins-study-of-discrimination-against-people-with-criminal-records/>.

between \$78 billion and \$87 billion per year.² On the other hand, when a formerly incarcerated person has a fair chance to earn a job and access housing, that person is less likely to commit another crime.³ And we should always remember that these collateral consequences do not fall equally on everyone in this state. Instead, because of racial disparities in Connecticut's criminal legal system,⁴ the harmful effects of collateral consequences also disproportionately fall on Black and Latinx people in the state.

Connecticut is making strides toward eliminating collateral consequences of criminal records, but to achieve this goal, the state cannot continue to impose new collateral consequences on people trying to build satisfying and stable lives. Unfortunately, that is exactly the effect of legislation that requires needless background checks or that erects unnecessary barriers to entry for people living with criminal records. House Bill 5476, unfortunately, falls into this trap. By requiring, in Section 1(c)(2)(B), that every "applicant and other personnel who will participate in the testing of the innovation" disclose any criminal convictions, this bill creates a new collateral consequence. Why criminal convictions should block innovators from bringing new services or products to market in Connecticut is unclear – probably because there is no articulable reason. If there are genuine concerns about public safety, a broadly sweeping background check mandate that seems to prevent people with records from accessing the regulatory sandbox program is not the correct approach. Rather, an individualized assessment would

² Cherrie Bucknor & Alan Barber, "The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies," at 1. Center for Economic and Policy Research (Jun. 2016), *available at* <https://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>.

³ The availability of suitable jobs in the labor market a person reenters when leaving incarceration "significantly reduces the risk of returning to prison." Crystal S. Yang, "Local Labor Markets and Criminal Recidivism," 147 J. Public Econ. 16 (Mar. 2017), *available at* https://scholar.harvard.edu/files/cyang/files/labor_recidivism_may2016.pdf. Stable housing "can reduce recidivism and its associated social costs and improve public safety for the receiving community." "Housing, Inclusion, and Public Safety." U.S. Department of Housing and Urban Development (Summer 2016), *available at* <https://www.huduser.gov/portal/periodicals/em/summer16/highlight1.html>.

⁴ According to the Sentencing Project, Connecticut is the fifth-worst state for Black men, with 1 in 19 incarcerated, making them 9.4 times likelier to be incarcerated than white men. Latino men in Connecticut are 3.9 times more likely to be incarcerated than white men. Ashley Nellis, "The Color of Justice: Racial and Ethnic Disparity in State Prisons." The Sentencing Project (Jun. 14, 2016), *available at* <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

better address any unusual situations where a person's record represents a real barrier to participation in the program.

We urge the General Assembly, and this Committee, to keep at the good work of ending mass incarceration and creating a more just society for all people in Connecticut. Doing so will require creating opportunities for formerly incarcerated people to fully integrate into society, instead of proliferating collateral consequences that cement their permanent second-class status. We urge this Committee to reconsider Section 1(c)(2)(B) and to remove the background check mandate and any barriers to participation in the regulatory sandbox for people with criminal records.